

**CALENDAR ITEM
C17**

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06/28/16

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PRC 5276.1
M. Schroeder

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF
A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Vicki Indig Smith, Trustee of the Indig-Smith Trust dated June 23, 2006

APPLICANT:

Phillip S. Estes and Nancy F. Estes, Trustees of the Phillip S. and Nancy F. Estes Revocable Trust dated June 27, 2013

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5680 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy.

LEASE TERM:

10 years, beginning June 28, 2016.

CONSIDERATION:

\$752 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on a sloped part of the shore with large boulders and gravel. The public is able to pass and repass under the pier along the beach and the lease terms allow for this. The buoy is located waterward of the applicant's parcel and occupies a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with the public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On October 30, 2007, the Commission authorized a 10-year Recreational Pier Lease to Vicki Indig Smith, Trustee of the Indig-Smith Trust dated June 23, 2006. That lease will expire on April 30, 2017.
3. On April 6, 2015, the upland was deeded to Phillip S. Estes and Nancy F. Estes, Trustees of the Phillip S. and Nancy F. Estes Revocable Trust dated June 27, 2013. The Applicant has applied for a General Lease – Recreational Use. Staff recommends termination of the existing lease

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because the Lessee abandoned the lease by selling the upland property and facility without executing a quitclaim deed.

4. On September 27, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the existing mooring buoy adjacent to the upland parcel. The TRPA permit is currently valid.
5. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
6. Staff recommends that the Commission accept compensation in the amount of \$940 for the unauthorized occupation of State land, for the period beginning April 6, 2015, when the Applicant took ownership, through June 27, 2016.
7. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

8. The staff recommends that the Commission find that issuance of the lease is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination, effective June 27, 2016, of Lease No. PRC 5276.9, a Recreational Pier Lease, issued to Vicki Indig Smith, Trustee of the Indig-Smith Trust dated June 23, 2006.
2. Authorize acceptance of compensation in the amount of \$940 for the unauthorized occupation of state land beginning April 6, 2015, through June 27, 2016.
3. Authorize issuance of a General Lease – Recreational Use to Phillip S. Estes and Nancy F. Estes, Trustees of the Phillip S. and Nancy F. Estes Revocable Trust dated June 27, 2013; beginning June 28, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof;

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annual rent in the amount of \$752, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5276.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15 Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 –PIER

All those lands underlying an existing pier and one (1) catwalk adjacent to that parcel described in Exhibit “A” of that Grant Deed recorded April 6, 2015 as Document Number 2015-0026268 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 – BUOY

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared April 12, 2016 by the California State Lands Commission Boundary Unit.



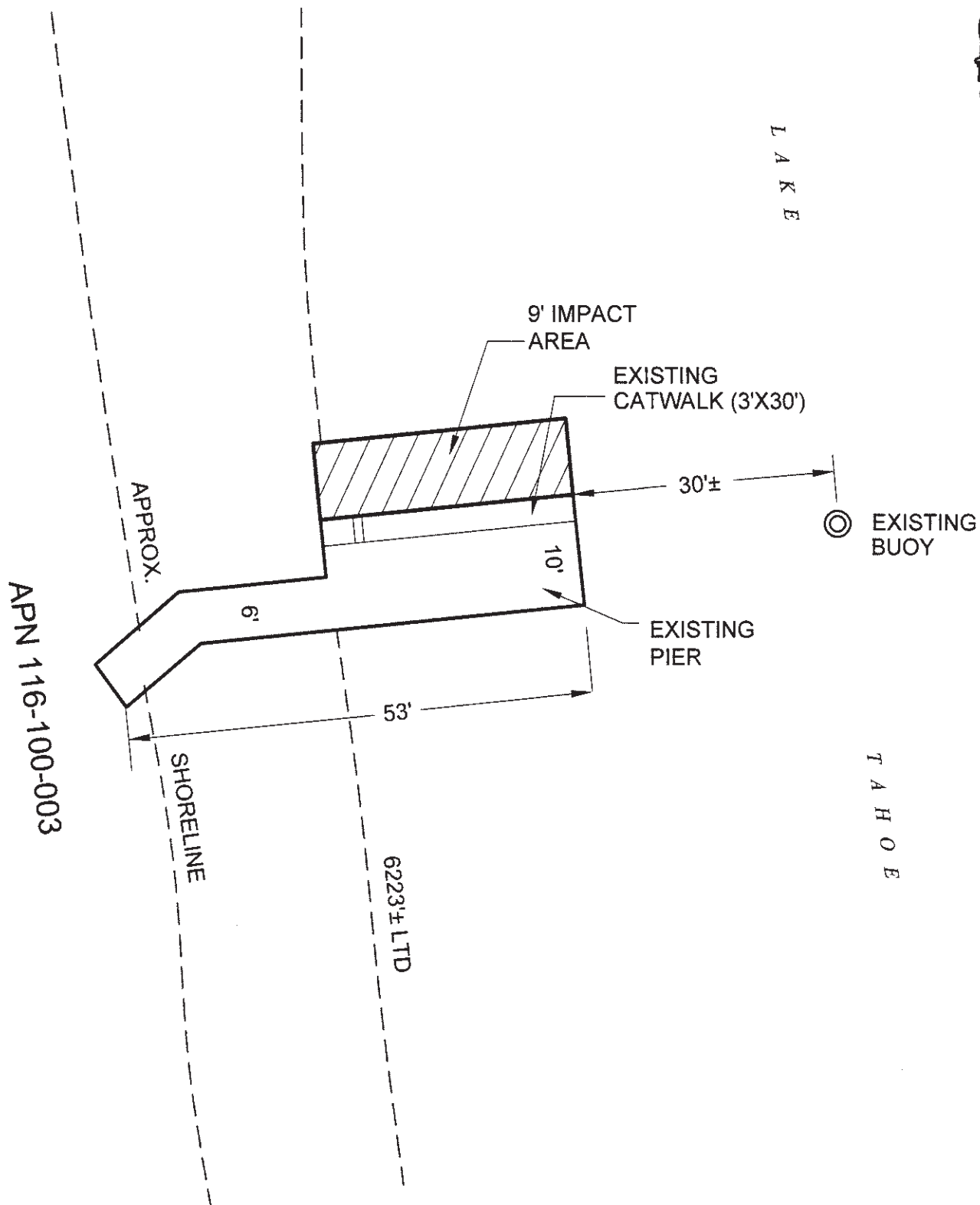


EXHIBIT A

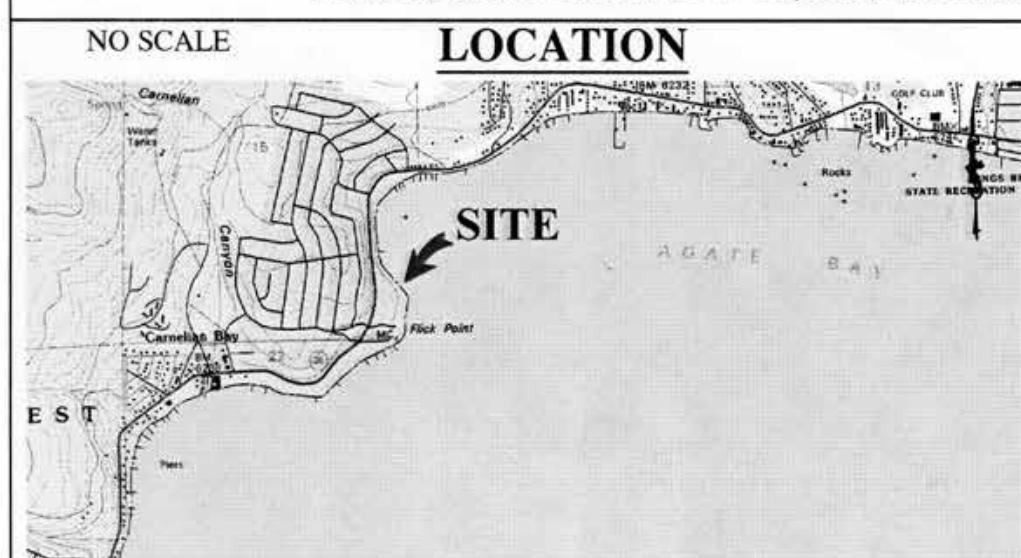
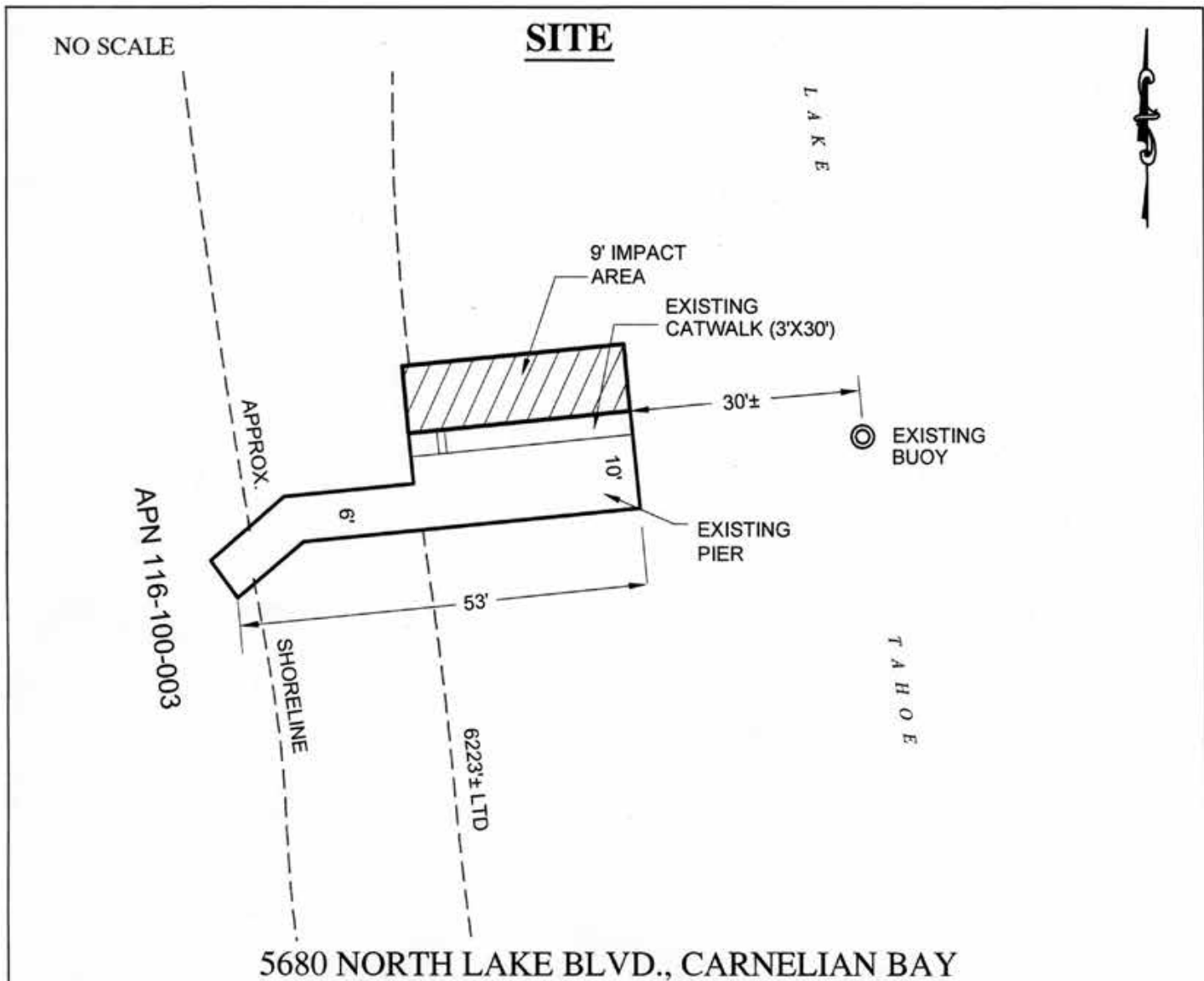
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LAND DESCRIPTION PLAT
PRC 5276.1, ESTES TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION

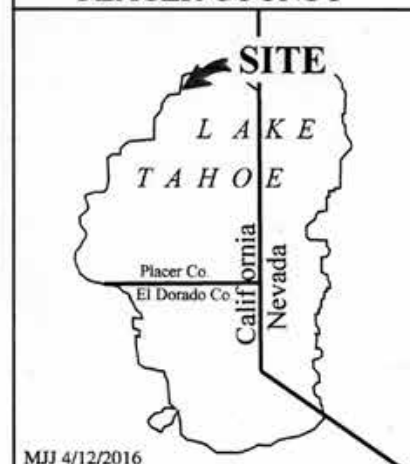




MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B
 PRC 5276.1
 ESTES TRUST
 APN 116-100-003
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 4/12/2016